

## REMARKS

The Examiner has objected to the disclosure because of the following informalities, the applicant had previously added new figures and a brief description of these figures, but failed to add them into the detailed description. The applicant has amended the detailed description to now reference these added figures. In particular the applicant has deleted the second paragraph on line 9, page 8 and replaced it with the following new paragraph on line 9, page 8.

Side support member 35 is clearly shown in FIGS. 10, 16 and 17. Side support member 35 has an inner arcuate surface 63 which articulates with the oval head portion 48 of pivot member 28. Thus, when the pivot member is rotated, the oval design forces the side support member 35 into the inner surface of the window jamb channel. The compressive force generated by the oval head 48 pressing the side support member 35 into the inner surface of the window jamb channel allows the window to be locked into place at any position along its vertical frame when tilted.

The disclosure should now be in accordance with the guidelines as set forth in the MPEP.

## REJECTIONS

### 35 USC § 112

The Examiner has rejected claims 4, 7, and 10-30 under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Applicant has amended these claims so as to distinctly claim the subject which the applicant regards as the invention.

In particular the applicant has amended claim 10 by inserting "first surface" after "from", as the Examiner suggested. Examiner questioned whether the "window jamb channel" and "such window" on lines 14 and 15 are the same as the "window jamb channel" and "sash" as recited on

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line 1. These are one in the same and applicant has added the proper antecedent basis to better exemplify this. This question is also brought up by the Examiner in claims 14 and 30, the applicant has made the same corrections to these claims as well.

In claim 13 applicant has taken the Examiner's suggestion and replaced "adopted" to "adapted" and "onto" to "into". Also, the Examiner did not readily understand the phraseology of claim 13, line 5 and 6. Applicant has amended this claim, in particular claim 13 now recites in part "said diagonal wall having first and second side diagonal". Claim 13 should now be readily understood by the Examiner.

In claim 14 applicant has removed the phrase "the surface". In addition, applicant has amended the phraseology of line 6 to better exemplify that which the applicant regards as the invention. Applicant has also made the proper grammatical corrections, such as replacing "an" with "a", as Examiner suggested.

Regarding claim 17 applicant has taken the Examiner's advice and deleted the phraseology "a first retaining means and a second retaining means on one inside surface of said channel and". Also, the phrase "first and" has been deleted from claim 17.

Regarding claims 18 and 21, line 1 and 2 respectively, applicant has taken the Examiner's advice and inserted an "a" after the term "has".

In claim 29 applicant has added further limitation "has side edges, said side edges" to the stability member, thus claim 29 should be readily understandable by the Examiner.

**35 USC § 102**

The Examiner has rejected claims 7, 13, 23 and 25-29 under 35 USC § 102(e) as being anticipated by O'Donnell et al. (6,550,184). In particular the Examiner avers that O'Donnell teaches a balance shoe assembly that has a base section with a pair of channels. O'Donnell does disclose a pair of channels, however the channels in O'Donnell are located on the sides of the balance shoe assembly, as can be seen beginning on line 39 of column 4:

“Side or radial openings **32, 33** are formed in sidewalls of slider body **14**...”

In the present application the channels are located on the inner surface **17** of balance shoe **11**. The channels of the applicant's invention guide retaining arm **34**, during motion in the horizontal direction. In addition, applicant has amended claim 13 so as to better define the channels of the present invention. O'Donnell does not teach or suggest the use of receiving channels for guiding a retaining arm of the support member.

Examiner further avers that O'Donnell discloses one or more guides (**54, 56, and 58**) that direct the pivot bar **68** to easily slide into the pivot member, this can be seen in Fig. 7 of O'Donnell. However, in O'Donnell the guide members cited by the Examiner are located inside the pivot member, whereas in the applicant's invention the guide members are integrally formed with balance shoe housing **11**.

Examiner also avers that O'Donnell discloses an inner surface of the balance shoe housing **14** having at least one receiving channel **44** to permit retaining arm **38** of side support **34** to move freely in a direction toward the window jamb channel **16**. However, in the O'Donnell configuration the channel **44** is located on the rear plane and extends only slightly toward the

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front plane. In the present invention the receiving channel extends from the rear plane to the front plane. O'Donnell does not teach or suggest of this type of receiving channel configuration.

Examiner further avers that O'Donnell further discloses an opening having a first ledge 44 and a second ledge and the side support member 34 rides along the first ledge and the pivot member 40 is placed in the opening and rest on the second ledge. In O'Donnell the support member rests on the flat surface of the pivot member, whereas in the present invention the ledge that the support member rests on is integrally formed with the housing.

Also, Examiner avers that O'Donnell discloses a retaining means which guides the side support member 34 to permit retaining arm 41 of the side support member 34 to move freely in a direction toward a wall of the jamb channel. However, according to the O'Donnell disclosure element 45 cooperates with lip 41 to provide resilient biasing force to assist in retracting the radial brake members 34.

According to MPEP 2131 "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Claims 7, 13, 23 and 25-29 should now be in a condition for allowance, because the cited prior art by the examiner does not expressly or inherently describe that which the applicant regards as the invention. Applicant's amended claims should be patenably distinguishable over the above cited prior art.

### **ALLOWABLE CLAIMS**

The Examiner has stated that claims 4, 10-12, 14-22 and 30 would be allowable if rewritten to overcome the rejections under 35 U.S.C. §112, second paragraph, as set forth in this

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office action. Applicant has made the necessary amendments to these claims and as such they should now be in condition for allowance.

In addition, the Examiner stated that claim 24 would be allowable if rewritten to overcome the rejection under 35 U.S.C. §112, second paragraph, as set forth in this office action, and included all of the limitations of the base claim and any intervening claims. Applicant has combined claims 13 and 24 to form new independent claim 31, and as such this claim should also be in a condition for allowance.

Regarding new dependent claims 32-46, applicant has made these claims dependent, either directly or indirectly, on new independent base claim 31 and as such they should also be in condition for allowance.

### CONCLUSION

For the foregoing reasons, applicant's claims are patentable over the cited prior art and the application should be in condition for allowance.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that the foregoing Response was mailed by first class mail,  
postage prepaid, in an envelope addressed to the Commissioner for Patents  
P.O. Box 1450 Alexandria, VA 22313-1450 on this 9 day of, May, 2006.

  
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Thomas A. O'Rourke